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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement*/ submitted by Inclusion International,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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Statement concerning the detention and mistreatment of people with intellectual disabilities

The International Covenant on Civil and Political Rights covers a number of fundamental rights, among them the right of self-determination (Article 1), the inherent right to life (Article 6), and the right to be treated with respect and dignity (Article 10).

In many parts of the world, human beings regrettably endure violations of their right not to be subjected to torture; to cruel, inhuman or degrading treatment or punishment; or to medical or scientific experimentation without consent, as well as their right to liberty and security of person (Articles 7 and 9).

Such practices are deplorable, and all agree that they should be condemned, wherever they occur.

Inclusion International would like to draw to the attention of this Commission the fact that children and adults with intellectual disabilities (estimated at 60 million throughout the world) are frequently subjected to similar practices. Yet despite such clear violations of the human rights of these people, very few voices are raised in protest. Those who do raise their voices meet with indifference.

Does this imply a general consensus that people with intellectual disabilities are not entitled to basic human rights?

Such an idea is intolerable.

Confusion of intellectual disability with psychopathology

Part of the problem lies in traditional assimilation of "mental retardation" with "mental illness". Intellectual disability is not a disease. It is a permanent condition with which the person must live for his/her entire lifetime. Although it cannot be cured, the disability can be alleviated thanks to appropriate social and educational supports.

In the majority of cases, people with intellectual disability present no danger whatsoever for the community.

Nevertheless, placement in psychiatric establishments of adults with intellectual disabilities is commonly justified on the grounds of "seriously aggressive and/or irresponsible behaviour," not because the person demonstrates such behaviours, but because it is presumed that such behaviours can (and will) occur.

In sum, the person has been charged and confined for an act or acts which have yet to be committed, on the suspicion that s/he is potentially capable of behaving in such a way. No burden of proof is required, only a blanket supposition.

Such prejudicial thinking clearly signifies discrimination, if not racism.

Inclusion International would like to make the observation that, when given adequate supports and treated respectfully, the majority of persons with intellectual disabilities do not have behavioural problems. In fact, they are far more likely to develop behaviour problems by being placed in psychiatric institutions, than to be cured of them in such settings.

Placement in psychiatric institutions of people with intellectual disabilities who do not require such care should not be justified simply because less restrictive forms of support are "unavailable."

Personal expression denied

What opportunity is there for people with intellectual disability living in large, impersonal institutions to protest their detention or mistreatment?

Some people with intellectual disabilities have difficulty indicating their preferences because of communication difficulties. Research has shown that their silence is easily interpreted as indifference or insensitivity, leading to voluntary or involuntary abuse.

Other people with intellectual disabilities are coerced unawares into "informed consent" because their life experiences have been so restricted they do not know that they have the right to chose or how to judge between the alternatives. Moreover, they are anxious to please. The field for abuse is left wide open.

Those who are capable of expressing their refusal of a prejudicial act or situation, can see their protestations easily discounted as demonstrations of the disability. If their desires are contrary to what the institution intends to impose, the easy response is that they are incapable of understanding what is in "their best interest" (this being defined by staff who are not necessarily disinterested parties).

The traditional association of intellectual disability with mental illness is particularly traitorous when disagreement is taken as evidence of an emotional disorder. The rapidly spreading notion of challenging behaviour as proof of psychopathology in people with intellectual disabilities (otherwise known as "dual diagnosis") is an open invitation to invalidation of what may be legitimate wishes.

Psychotropic medications are often administered, simply to keep people in institutions under control. Some of these drugs render people mute with confusion (in other words they muzzle dissent). Their long-term administration, beyond the risk of polypharmacy and over-dosage, can have irreversible consequences for the life expectancy of the persons concerned.

Thus people in institutions can be deprived not only of the freedom to exercise self-determination, but of their health.

Inadequate and inappropriate care

In a number of countries, living conditions in special institutions are appalling: large promiscuous wards where privacy is impossible; several tenants to a single bed, without mattress or blankets; caged beds where it is impossible to stand upright; leg chains soldered to furniture or to the walls; squalid facilities for personal hygiene.... Such conditions are destructive to both health and personal development, to the point of depriving people with intellectual disabilities of any chance to enjoy quality of life.

Many people with intellectual disabilities have biological problems which are neglected because personnel do not consider such people worthy of medical attention, or because the institutions are ill-equipped to deal with such conditions.

Physically and mentally degrading treatment

Behind the walls of institutions, out of sight and out of mind, inmates are subjected to dehumanizing and punitive procedures. Women are particularly vulnerable to sexual abuse. Training manuals for staff may openly condone physical restraints and seclusion. Electro-convulsive therapy and "aversive techniques" involving physically or emotionally painful stimuli may be applied to modify and/or control behaviour.

In other cases, medical procedures which would be unauthorized in any other context are freely admitted: women with intellectual disabilities are sterilized without their knowledge, much less their consent; regardless of their sex, inmates may be physiologically exploited for research purposes.

Such practices were condemned when they occurred in Nazi concentration camps. Who condemns them today?

Inclusion International concurs with the UN Special Rapporteur Bengt Lindqvist who, in his report last year to the Commission for Social Development, made the observation that the *United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities* provide "no guidance concerning the handling of institutions, where still a great number of person with disabilities spend their whole lives under miserable circumstances."

The Standard Rules are currently in the process of review, and the Special Rapporteur will prepare proposals for revisions by the end of this year.

In the meantime, Inclusion International submits that national policies encouraging institutionalization of children and adults with intellectual disabilities are inconsistent with basic human rights.

Such policies tolerate, even encourage, unjustified detention, degrading treatment and painful if not life-threatening practices.

Inclusion International respectfully suggests that this Commission condemn such policies, as well as the practices.